

Meeting Summary
DNR Clean Air Act Task Force
April 19, 2000 – Madison, WI

Participants: Pat Stevens, WMC; Hank Handzel, DeWitt Ross & Stevens for PIW/WPC; Ed Wilusz, WI Paper Council; Rob Kennedy, Citizens for a Better Environment; Del Malzahn, ANR Pipeline; Ken Yunker, Southeastern Wisconsin Regional Planning Commission; Mark Steinberg, SC Johnson & Son; Michael Ricciardi, Madison Gas & Electric; Jill Stevens, Alliant Energy; Jim Albrecht, STS Consultants; Jim Beasom, Appleton Papers Inc.; Erin Roth, WI Petroleum Council; Marc Bentley, WI Motor Carriers Association; Nicole Anderson, WI Clean Cities - Southeast Area, Inc.; Dave Kluesner, International Paper; Todd Palmer and Simone Halner, DeWitt Ross & Stevens; Gary Van Helvoirt, WI Public Service Corp.; David Dononvan, Northern States Power - Wisconsin; Jeffrey L. Landsman, Wheeler, VanSickle & Anderson S.C.; Jeff Schoepke, Governor Thompson's office; Linda Bochart, Michael Best & Friedrich; Kathleen Standen, Wisconsin Electric; John Etzler and Neil Howell, WI Department of Administration; John Stolzenberg, Legislative Council staff; Carol Cutshall, Patricia Trainer, Aaron Talley, Joe Conduah and Steve Hirshfeld, WI Department of Transportation; Pam Christenson and Renee Bashel, WI Department of Commerce; Sally Jenkins and Terri Kosobucki, Public Service Commission of WI; Sue Hill, Jerry Medinger, DNR Southeast Region; Larry Bruss, Lloyd Eagan, Tom Karman, Dennis Koepke, Allen Hubbard, Anne Bogar and Anne Urbanski, DNR Bureau of Air Management.

Handouts/overheads: Wisconsin attainment plan to meet the federal one-hour ozone standard, due 12/31/00 - Power Point slide show, available on the web at:
<http://www.dnr.state.wi.us/org/aw/air/hot/1hrSIP0400/index.htm>

Next meeting: Thursday, May 18, 2000, from 1:30 to 4:00 p.m. in Room 027, Natural Resources Bldg., 101 S. Webster St., Madison, WI 53703.

Discussion

Lloyd Eagan said the only agenda item was to discuss DNR's proposal for the December 2000 ozone attainment SIP submittal, which DNR planned to present as an informational item to the Air, Waste, Water/Enforcement Committee of the Natural Resources Board at the April NRB meeting. At the March Task Force meeting, stakeholders provided a list of concerns for DNR to work on. Eagan noted that the DNR had listened to and made progress on addressing those concerns. DNR is no longer moving forward on the previously proposed 4-state agreement on attainment but is still having discussions with the other three states on how to reach attainment (WMC request). DNR staff have completed modeling on the 1-hour attainment demonstration using the SIP call as modified by the March 2000 court decision and some preliminary results are available (WMC, Wisconsin DOT). We have moved forward on developing the 1-hour ozone SIP (Environmental Decade) and have developed more information relative to the link between the 1-hour and 8-hour ozone standards. We've dropped an earlier proposal to include VOC controls for small engines, consumer products and other area sources (Briggs & Stratton and SC Johnson asked to be involved in developing such controls). We began our assessment of required reductions by looking at the nonattainment areas first (WI Public Service Corp.) We included a margin of uncertainty (transportation stakeholders). Finally, the Mobile Source Technical Advisory Group has met with the Conformity Workgroup, and they agreed to convene the MSTAG to work on developing transportation control measures.

Plan components: Eagan said that DNR will now seek authorization for public hearings at the May NRB meeting. The plan will focus on demonstrating attainment of the 1-hour ozone standard by 2000. The plan will include: Wisconsin's attainment demonstration, which must include rate-of-progress reductions for emissions of both nitrogen oxides and volatile organic compounds; Reasonably Achievable Control Technology (RACT) rules for three source categories (to cure a deficiency in an earlier SIP submittal); an excess emissions fee rule; and a transportation conformity rule. The plan is designed to attain the 1-hour ozone standard, reduce

emissions as required for Rate of Progress and RACT, establish federally required penalties for failure to attain the ozone standard, and to maintain the ozone standard after 2007. Our latest modeling shows that Wisconsin will attain the ozone standard if the states still affected by the NOx SIP call make the required NOx reductions. The Clean Air Act requires us to implement ROP reductions. The plan will also propose performance standards and emission offsets. Pat Stevens asked why these requirements would be triggered regardless of whether southeastern Wisconsin violated the ozone standard again, whereas a maintenance plan is triggered only if the standard is violated; Larry Bruss said the key difference is that the three counties with maintenance plans have been redesignated to attainment, whereas the current nonattainment counties have not attained the ozone standard yet. Linda Bochart asked if DNR had decided to go with an expanded geographic area; Eagan said the issue would not be resolved by May, and the department will ask the NR Board to allow DNR to present a menu of options during the public hearing/public comment period. Ed Wilusz said the DNR's plan would apply ozone maintenance requirements in large areas of the state that are and have always been in attainment; he asked what precedent there is for doing this. Bruss noted that DNR has numerous RACT rules that apply to VOC sources statewide.

Eagan noted that due to the March court decision, DNR has changed its direction on dealing with other pollutants in this attainment plan. Secretary Meyer has encouraged staff to take a simpler approach and use the attainment demonstration SIP submittal to do only what is strictly mandated and to pursue reductions of other pollutants through other means. Thus DNR will pursue a voluntary program of early reductions of other pollutants; this would apply to the 8-hour ozone standard, fine particulates, regional haze, hazardous air pollutants, mercury and greenhouse gases. DNR expects support from citizens and industry for this approach. DNR will pursue a voluntary reporting system in a separate rulemaking.

Eagan presented more details on the attainment plan elements. The plan assumes upwind states will comply with the NOx SIP call and reduce their emissions to a rate of 0.15 lb. NOx per MMBTU. The ROP requirements establish maximum allowable emissions for VOCs and NOx and require additional reductions of 3%/year from a 1990 baseline, for a total of 51% by 2007. ROP requirements will apply in the 9 nonattainment counties. DNR is also proposing 4 geographic regions, two ozone control regions and two ozone maintenance regions, with varying levels of emission limitations depending on how much their emissions impact ozone problem areas. The plan also seeks comment on applying NOx cutpoints for vehicle emissions in the counties that already have vehicle inspection/maintenance; this means I/M tests could fail vehicles for excessive NOx emissions. The plan also includes a federally mandated penalty of up to \$5,000 per ton of emissions in excess of 80% of a facility's baseline emissions (based on maximum theoretical emissions, rather than actual emissions). As maintenance measures, the plan includes emission offsets for new sources, as well as performance standards for both new and existing sources. DNR is proposing four sets of ROP options for comment. Pat Stevens asked how DNR defined "large sources" in the nine nonattainment counties; he said it appeared DNR was using a different definition than the NOx SIP call used. Bruss said DNR is essentially proposing to include all boilers, rather than those that meet the "large boiler" definition. Tom Karman said the NOx Technical Advisory Group would be convened to discuss the assumptions behind the various options. Bruss said DNR would take comments on whether the proposal should include emission offsets statewide. The rule package also will include VOC controls for industrial solvents cleanup, ink manufacturing and plastic parts coating, which DNR failed to submit to EPA in 1998. DNR is proposing these rules for industrial solvent cleanup and consent orders for ink manufacturing and plastic parts coating for all nine nonattainment counties.

Eagan outlined the schedule DNR plans to follow between April and December 2000. Gary VanHelvoirt asked DNR staff to put together tables showing what would be required in

each of the four ozone control/maintenance regions. Pat Stevens said it seemed to be contrary to common sense to require the Rate of Progress reductions separately from the attainment demonstration; Eagan replied that we are required to do both regardless. While DNR hopes to get big emission reductions from other states, those are not in-hand, and the ROP reductions make sense as Wisconsin's "fair share" contribution toward reducing ozone transport. Linda Bochart asked about the transportation conformity budget portion of the attainment demonstration. Eagan said DNR plans to include a mobile sector budget based on a high-growth estimate plus a 7.5% uncertainty factor. Ken Yunker emphasized this "margin of uncertainty" is needed because southeastern Wisconsin has experienced high growth in recent years and it's very difficult to predict economic growth, vehicle mix and vehicle miles traveled. Rob Kennedy said the environmental community supports the uncertainty factor and believes it is extremely important for all economic sectors to do their share in reducing emissions. Mark Steinberg asked if DNR had compared the cost effectiveness of NOx cutpoints for vehicle emissions versus regulating smaller boilers; Eagan said the DNR would consider that as well. Dennis Koepke said the I/M program probably was most cost-effective in its earliest years; as we get closer to 2007, a larger proportion of the vehicle fleet will already have on-board diagnostics that should diagnose excess NOx emissions.

Eagan asked if there were more questions. Ed Wilusz asked about the intent of applying the performance standards in 2005 and whether the performance standards would apply to sources that otherwise would not be subject to NSPS. Bruss replied that the performance standards would apply to sources that had not already controlled their emissions to BACT or LAER levels. Wilusz asked about capping emissions. Eagan said DNR is trying to use the performance standards for new sources to control growth of emissions so Wisconsin can stay within its emissions budget. This would be accomplished through combinations of offsets, performance standards for new sources, and performance standards for existing; these combinations would vary among the ozone control and maintenance regions. There is no intention to create an actual emissions cap as exists in the acid rain program. Jim Beasom asked whether NOx cutpoints would be applied statewide or in select counties; Bruss said only in the 7 to 9 nonattainment counties with existing I/M programs. Kathleen Standen said she was still unclear on the difference between rate of progress reductions and performance standards and whether ROP reductions would be required on top of performance standards. Bruss said DNR would use performance standards to help achieve the required ROP reductions; also, proposing performance standards in a much larger geographic area will help ensure that emissions in those areas don't grow beyond the model. Todd Palmer said he was confused as to whether the ROP requirements were part of the ozone maintenance plan. Eagan replied that ROP must be done in both attainment and maintenance plans. Bruss said that making some modest ROP reductions in a relatively small area does not address the problem of emissions growth in the much larger area. Emissions growth can't be handled by the Prevention of Significant Deterioration (PSD) program because almost all sources choose to voluntarily cap their emissions at 249 tons (making them "synthetic" minor sources which are not subject to PSD rules). DNR is attempting to put together a relatively simplistic program that will actually save sources money to ensure that Wisconsin will stay within its emissions budget in spite of economic growth and to prevent sources from incurring the excess emissions fee. Pat Stevens asked why the ROP reductions would not be enough of a safety measure. Bruss said the emissions from outside the nonattainment area (such as Jefferson, Walworth and Dane counties) also contribute to ozone problems. Eagan said the maintenance element is a statutory requirement of the SIP submittal. DNR could choose various ways of doing New Source Performance Standards to maintain the ozone standard once it's been attained. DNR staff thought that NSPS was a low-cost and logical way to maintain the standard. Dave Kluesner asked if DNR had a good estimate of NOx emissions from outside the

nonattainment area so it can predict how much annual growth would push the state out of maintenance and back into nonattainment. Bruss said it could be a very small amount; Eagan said DNR can develop scenarios and provide figures. She noted that while emissions in most sectors are declining, emissions in the area source sector are still largely uncontrolled.

Modeling results: Bruss said DNR staff have modeled two tests of attainment. Wisconsin does not pass the deterministic test. In the statistical test Wisconsin passes by exactly 1 part per billion (129 ppb out of a maximum allowable 130 ppb). EPA also tested the attainment demonstrations using a relative reduction factor (RRF). DNR applied the RRF to two episodes it modeled to the current design value at all monitors in the Lake Michigan region that are now above the ozone standard. On this basis southeastern Wisconsin misses attaining the 8-hour ozone standard, because of an 87 ppb design value at the Bayside monitor. Bruss noted that 3 monitors in western Michigan have 8-hour design values of 90, 90 and 92; he said they are being inundated by the pollutant plume from Milwaukee. Pat Stevens asked why DNR thought it was valid to continue working on the 8-hour standard when this has been stayed by litigation and we're not sure EPA is locked into 80 ppb as the standard. Eagan and Bruss replied that this is the only number DNR has to work with, and some stakeholders have specifically asked DNR to keep this number in mind while doing modeling. Bruss noted that these design values do not include ROP reductions, and do represent what happens if all affected states make SIP call reductions but Wisconsin makes none.

Ed Wilusz said he had a few questions. If, as Bruss said, Wisconsin can pass the attainment test-- albeit by a razor-thin margin--without additional controls on state facilities, does that mean that three of the four ozone control regions are unnecessary to passing the attainment test. Bruss said yes, but the object of the maintenance program is to make sure we maintain the standard in the future. Wilusz had several comments on the green sheet package regarding areas that directly impact nonattainment areas. He asked what kind of modeling DNR did to determine the impact of the secondary ozone control region on the primary ozone control region. Bruss said DNR didn't directly model this but used existing modeling information from the NOx SIP call. Wilusz asked if DNR could determine whether controls in the secondary ozone control region would lead to a specific parts-per-billion benefit in ozone reduction in the primary ozone control region; Bruss said not at this point. Wilusz said this raised a serious concern for his constituents, because it appears that over 100 boilers of Wisconsin Paper Council members would be in one or the other ozone control region, where DNR is proposing reductions of between 50 and 80 percent, much more stringent than the NOx SIP call. Bruss said DNR believes the reductions would result from changes the sources should be doing anyway to improve performance and save money in the long run, essentially boiler tuneups. Eagan said that if Wilusz was uncomfortable with these concepts and their perceived impact on his constituents' facilities, this is the time for him to meet with DNR staff to address these concerns. She emphasized that DNR had only been developing the plan since the court ruling on March 3, 2000, and tried to do so in a way that was sensible and limited its economic impact. She asked Wilusz to provide data to DNR showing how much the plan would cost his members. DNR is trying to show a menu of options, all of which are open for comment.

Announcement: Eagan announced that the Permits & Fees Committee would meet at 9:00 a.m. on May 18 in Room 717, GEF 2.